

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: XIADONG LI ET AL.

Serial No.: 10/319,821

Group Art Unit:

Filed: DECEMBER 16, 2002

Examiner:

Title: CHIMERIC GATIPHAL 15 VARIANTS AND THEIR USE IN THE
ANALYSIS AND DISCOVERY OF MODULATORS OF G-PROTEIN
COUPLED RECEPTORS

PETITION UNDER 37 CFR §1.47(a)

Mail Stop

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants Xiaodong Li, Hong Xu, and Lena Staszewski hereby petition the Commissioner to accept the filing of the above-identified patent application on behalf of themselves and the joint inventor, Jon Elliot Adler, who has refused to join in the application. Dr. Adler last known address is as follows:

1099 Turquoise Street
Apartment 15
San Diego, California 92122

Applicants, through their patent counsel, have diligently attempted to obtain Dr. Adler's signature on a Declaration and Assignment for this application, but he has refused. Specifically, as detailed in the Affidavit by the undersigned, Dr. Adler

was provided a complete copy of the as-filed patent application, the priority application, and the accompanying combined Declaration and Power of Attorney and Assignment, through his attorney Ms. Marilyn Mika Spencer. These documents were forwarded to Ms. Spencer on July 3, 2003 and Ms Spencer was requested to send the undersigned the signed documents by July 20, 2003 (for filing in the United States Patent and Trademark Office).

To date, we have not received these signed documents, nor have we received any other communication from Ms. Spencer or Dr. Adler in connection with our request for signed documents.

With respect to our request, we note that Dr. Adler terminated his employment with Senomyx Inc., the assignee of this application, on May 10, 2002 and that ever since that date Dr. Adler has refused to sign all patent documents for Senomyx applications for which he is a named inventor. A letter dated May 27, 2003 from Ms. Spencer, Dr. Adler's attorney, evidences this fact. Though in this letter Ms. Spencer acknowledges Dr. Adler's contractual duty to sign documents for patent matters that Dr. Adler is an inventor, she indicates that signed patent documents will not be provided until the parties (Senomyx and Dr. Adler) come to an agreement regarding compensation for Dr. Adler's services in connection with review of Senomyx patent applications and the signing of legal documents associated therewith. To date, the parties have been unable to come to an agreement.

Therefore, while Applicants have diligently attempted to procure the signature of Dr. Adler on the Declaration and Assignment papers for this application, Dr. Adler has refused to sign these documents. In fact, since May 10, 2002, Dr. Adler has not signed a single document for any US or foreign patent application for which he was properly identified as an inventor, notwithstanding diligent attempts by the undersigned to obtain his signature on Assignment and Declaration documents (after he was presented copies of the relevant as-filed patent application).

Therefore, based on the foregoing, grant of this §1.47(a) petition is believed to be appropriate. Additionally, in further response to the Notice of Missing Parts, the fee of \$130.00 under §1.17(h) for filing this Petition, a three months extension fee, a Sequence Listing and an Amendment pursuant to 37 CFR 1.821-825, and the late filing oath surcharge fee is provided herewith.

Based on the foregoing, it is believed that all items are in good standing, and that this application should be permitted to proceed to examination.

If any issues remain outstanding in connection with this Petition, the reviewing official is respectfully requested to contact the undersigned so that prosecution may be expedited.

Respectfully submitted,

August 5, 2003



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